

Press Release

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IN WAKE OF HP SCANDAL, SCHAKOWSKY RENEWS CALL FOR END TO PRETEXTING

WASHINGTON, DC -- U.S. Representative Jan Schakowsky, ranking member on the Energy and Commerce Subcommittee on Commerce, Trade, and Consumer Protection and member of the Oversight and Investigations Subcommittee, made the following statement at the Oversight and Investigations Subcommittee hearing on the Hewlett-Packard pretexting scandal:

Thank you, Chairman Whitfield and Ranking Member DeGette for holding today's hearing on the Hewlett-Packard's pretexting scandal. I am glad that we have the opportunity to further examine what is undoubtedly the most notorious case of pretexting for personal phone records to date.

In July 2005, I circulated a letter to my Congressional colleagues drawing attention to the burgeoning practice of pretexting of phone records. I urged them to join me as cosponsors of the SAFE CALL Act, which is a somewhat tortured acronym for the Stop Attempted Fraud against Everyone's Cell and Land Lines Act, a bill that would expressly prohibit pretexting for phone records. I am proud that my bill was used as the basis for Title I of H.R. 4943, the Prevention of Fraudulent Access to Phone Records Act, which passed our committee unanimously.

We drafted the bipartisan H.R. 4943 because questions were raised about whether pretexting for phone records was legal, not to mention the safety and privacy concerns it raises. The FTC has successfully brought pretexting cases under its Section 5 authority, which prohibits unfair or deceptive acts and practices. A number of states - including my homestate of Illinois - have used their general consumer protection and computer fraud statutes to file lawsuits against the practice. Yet, because there is not clear federal statute outlining this anti-consumer practice, there are those who still choose to dabble in what they claim is a grey area of the law.

HP is a perfect example. When Kevin Hunsaker - HP's senior counsel and director of ethics - asked whether pretexting for board member and reporters phone records was "above board," Tony Gentilucci - HP's investigations manager replied, "I think it is on the edge, but above board." Hunsaker, instead of demanding an explanation or ringing the alarm bells - responded, "I shouldn't have asked." Additionally, HP's September filing with the SEC revealed that the board was advised by its outside general counsel, Larry Sonsini, that pretexting for phone records was "not generally unlawful." The filing went on to say, "but such counsel could not confirm that the techniques employed by the outside consulting firm and the party retained by that firm complied in all respects with applicable law."

Hewlett Packard's action and hedging about pretexting's legality demonstrate just how pressing it is to pass our bill and put an end to all questions. Congress, and at least 12 states that have passed anti-pretexting laws, agree that pretexting is unacceptable - and that the ends (in HP's case, squelching board leaks) do not justify the means.

What makes the HP story more disheartening is that HP was believed to a corporation that set business standards that others should follow. In January 2005, TRUSTe and Ponemon Institute named HP "The Most Trusted Company in America for Privacy." In July 2006, the Commerce, Trade, and Consumer Protection Subcommittee, of which I am the ranking member, invited HP to testify about what it does to raise the bar on consumer privacy protections. Little did we know that when we were trying to learn about its "best practices," HP had just been engaging in the worst practices out there. If corporations that are supposed to be so reputable are employing such legally and ethically questionable behavior, we have to ask what other corporations are doing. I look forward to hearing from today's witness. I truly hope that we can get to the bottom of this scandal. Thank you.